

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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PAUL MITCHELL

Plaintiff,

-v.-

Civil Action No.  
9:04-cv-937 (GLS/DRH)

PAUL HARRIMAN, Registered Nurse;  
NURSE PERREA, RN; SHERYL MILLER,  
Nurse Practitioner; M.D. KANG LEE;  
SERGEANT RIVERS, Corrections Sergeant;  
DAN CARPENTER, Corrections Officer; and  
JOHN DOE #1, Unidentified Corrections  
Officer

Defendant.  
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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

PAUL MITCHELL  
94-A-4110  
Plaintiff Pro Se  
Clinton Correctional Facility  
Post Office Box 2001  
Dannemora, New York 12929

HON. ELIOT SPITZER  
**Attorney General for the  
State of New York  
Attorney for Defendants  
The Capitol  
Litigation Bureau  
Albany, New York 12224-0341**

KATE H. NEPVEU, ESQ.  
**Assistant Attorney General**

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David R. Homer, duly filed January 4, 2006. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

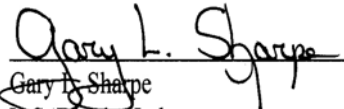
ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed January 4, 2006 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that defendants' motion to dismiss (Docket No. 15) be:

1. GRANTED as to all five moving defendants in all respects as to the second and third causes of action.
2. DENIED as to Harriman and Lee as to the first cause of action.
3. GRANTED as to Miller, Rivers, and Carpenter as to the first cause of action.

IT IS SO ORDERED

Dated: January 31, 2006  
Albany, New York

  
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Gary L. Sharpe  
U.S. District Judge